

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8021 OF 2005

Sanjay Abhyankar & Anr.	...Petitioners
Vs.	
Santosh Mhaske (Administrator)	
& Ors.	...Respondents

Mr. A.D.Patwardhan Adv. for Petitioners
Respondent No.1 in person
Mr. P.M. Huddar Adv. with Mr. A.S.Rao Adv. for
Respondent No.2
Mr. K.S. Bapat Adv. with Mr. A.N.Fatangare Adv. for
Respondent No.3.

CORAM: F.I.REBELLO & ROSHAN DALVI, JJ.
DATED: 30TH NOVEMBER , 2005

P.C.

. Rule. Heard forthwith.

2. The Petitioners are aggrieved by the order dated 7th October 2005 whereby the applicaation made by them to hold fresh elections of General Council and Office bearers of Bank Karmachari Sangh has been rejected.

3. Petitioners raised the dispute as to the Office bearers of the Bank Karmachari Sangh. Pursuant to that dispute a reference came to be made with the Industrial Court. During pendency of the dispute it appears that Office Bearers who claim that they were the Office bearers held elections for the year

2005-2008 and informed the Officer under Trade Union Act that this was done pursuant to the orders of this Court. From proceeding before the Industrial Court the matter came to this Court in Writ Petition No.3921 of 2005. By order dated 22nd July 2005, learned Bench of this Court directed appointment of Administrator pending decision of the reference by the Industrial Court and further issued direction to dispose of the reference preferably by 31st December 2005. It is pointed out that the Industrial Court was empowered to consider the question, if any, of consequential directions including holding of elections.

4. Learned Counsel submits that the order of this Court therefore, even permitted holding of elections by directions issued by the Industrial Court and in these circumstances the failure of Industrial Court to exercise its jurisdiction is without jurisdiction and consequentially the order is liable to be set aside.

5. We have heard learned Counsel for the parties. The issue before the Industrial Court is as to who were the duly elected office bearers. It is the duly elected office bearers who have right to hold elections. The democratic concept of holding elections cannot be substituted by the Court directing holding of elections unless there are such special circumstances warranting directions for holding of the

elections. The dispute before the Industrial Court arises out of the reference by the Petitioners, questioning the right of the persons claiming office bearers to continue as office bearers. The issue will have to be resolved by the Industrial Court in the pending reference by deciding who are the office bearers holding office and who then have right to hold the elections.

. Considering the above we do not think this to be a fit case where we should exercise our extraordinary jurisdiction. However, we may only make an observation that on the Industrial Court disposing of the reference in terms of the order issued by the Court, whoever are held to be office bearers to complete the election process in terms of bylaws of the Union within a period of 6 weeks from the date of the order.

(F.I.REBELLO J.)

(ROSHAN DALVI, J.)